Office - Supreme Court, U.S.
FILED
JAN 12 1984
ALEXANDER L. STEVAS,
CLERK

83-1814

No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

BETTY GALVIN,

Petitioner,

v.

HERITAGE FIRST NATIONAL BANK
OF LOCKPORT, ILLINOIS;
Executor of the Estate of Harold Grabow, Deceased

DONALD O'TOOLE,
Chairman and Chief Executive Officer of Heritage Pullman Bank & Trust Company

WILLIAM SABO,
President of Heritage First National Bank of Lockport, Illinois

MAX ZOLLNER,
Attorney for the Executor

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BETTY GALVIN
Box 305
Geneva, Illinois 60134
Telephone: 312-232-2287
Pro Se Petitioner

Dated: January 5, 1984

Merrill/Gunthorp Warren, Chicago • 372-2600

QUESTIONS PRESENTED

Did the United States Court of Appeals for the Seventh Circuit err in substantive justice by ignoring the petitioner's loss of valuable sub-division property without due process in an UNPUBLISHED ORDER NOT TO BE CITED which failed to take into account court documented facts and applicable laws?

Did the United States Court of Appeals for the Seventh Circuit err in failing to note the prepondance of court records detailing abuse of court procedure, admitted back-dating and manipulations of court documents leading to unjust enrichments, thereby vesting an interest in such procedures to all court personnel under the Seventh Circuit jurisdiction and undermining the integrity of the courts?

Did the United States Court of Appeals for the Seventh Circuit err in substantive justice on constitutional matters by calling the case "well pleaded", then adopting mistaken statutory application and irrelevant authority cited in the district court's memorandum?

Did the United States Court of Appeals for the Seventh Circuit err in its reliance on novel and archaic definitions of "state action" in conflict with current judicial thinking of other federal courts?

Did the United States Court of Appeals for the Seventh Circuit err in failing to recognize the general knowledge that interstate and international sales of real estate properties have long been subjects of general discussion and legislative activities at both state and federal levels, thus subject to antitrust laws?

Did the United States Court of Appeals for the Seventh Circuit err in ignoring reasonable and necessary facts requiring jury evaluation in adopting the district court's dismissal?

Did the United States Court of Appeals for the Seventh Circuit err in ignoring current judicial thinking of other fed-

eral appeals courts regarding federal rules in order to solve inherent difficulties of antitrust actions?

8 Did the United States Court of Appeals for the Seventh Circuit err in failing to recognize one of the oldest precepts of our court system: property ownership descends at the moment of death?

9 Did the United States Court of Appeals for the Seventh Circuit err in failing to recognize that the property in this case was never in any kind of trust arrangement; and further, that the fiduciary status of the respondents requires complete accountability and demonstrated good faith to meet one of the most important and longest held legal premises of our court system?

PETITION FOR CERTIORARI
TABLE OF CONTENTS

	PAGE
Questions Presented	i
Opinions Below	2
Jurisdiction	2
Constitutional and Statutory Provisions Involved	3
Statement of the Case	3
Reasons for Granting the Writ	6
Conclusion	8
Appendix A	
Opinion of United States Court of Appeals of November 9, 1983, UNPUBLISHED ORDER NOT TO BE CITED	A-2
Opinion of District Court, 7th Circuit, of March 5, 1982, Case No. 78 C 4604	A-5
Opinion of District Court, 7th Circuit of January 26, 1979, Case No. 78 C 4606	A-8
Report of Proceedings, October 25, 1977, in the Circuit Court of the Twelfth Judicial Circuit of Illinois, Will County, Case No. W74PE50	A-9
Opinion of the Third Appellate Court of Illinois, July 27, 1979, Case No. 78-237, page 2	A-14
Appendix B	
Constitution of United States	
Fourteenth Amendment, First Section	B-1
Amendment I	B-1
IV	B-2
VII	B-2
Article I, Section 10	B-2
28 U.S.C. § 1331	B-3
15 U.S.C. 1 and 2 (Sherman Act)	B-3
15 U.S.C. 15 (Clayton Act)	B-4
15 U.S.C. 26 (Clayton Act)	B-4

No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

BETTY GALVIN,

Petitioner,

v.

HERITAGE FIRST NATIONAL BANK
OF LOCKPORT, ILLINOIS;
Executor of the Estate of Harold Grabow, Deceased

DONALD O'TOOLE,
Chairman and Chief Executive Officer of Heritage Pullman Bank & Trust Company

WILLIAM SABO,
President of Heritage First National Bank of Lockport, Illinois

MAX ZOLLNER,
Attorney for the Executor

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

Betty Galvin, the petitioner herein, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Seventh Circuit entered in the above-entitled case on November 9, 1983.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Seventh Circuit, November 9, 1983, unreported, UNPUBLISHED ORDER NOT TO BE CITED, is printed in Appendix A hereto, infra page A-2.

The opinion of the United States District Court, 7th Circuit, March 5, 1982 is printed in Appendix A hereto, infra page A-5.

The opinion of the United States District Court, 7th Circuit, January 26, 1979 is printed in Appendix A hereto, infra page A-8.

Report of Proceedings, October 25, 1977, in the Circuit Court of the Twelfth Judicial Circuit of Illinois, Case No. W74PE50 is printed in Appendix A hereto, infra page A-9.

The opinion of the Third Appellate Court of Illinois, July 27, 1979, case no. 78-237, page 2 is printed in Appendix A hereto, infra page A-14.

JURISDICTION

The judgment of the United States Court of Appeals for the Seventh Circuit was entered on November 9, 1983. The jurisdiction of the Supreme Court is invoked under the Constitution of the United States, Article I, Section 10, Amendments I, IV, VII and XIV, Section I; 28 U.S.C. 1331; the Sherman Act, Sections 1 and 2 (15 U.S.C. 1 and 2) and the Clayton Act, Sections 4 and 16 (15 U.S.C. 15 and 16), as hereinafter more fully appears. The matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the following United States Constitutional provisions, printed in Appendix B:

The Fourteenth Amendment, Section I, infra page B-1.

Amendment I, infra page B-1.

Amendment IV, infra page B-2.

Amendment VII, infra page B-2.

Article I, Section 10, infra page B-2.

This case also involves the following United States Statutes, printed in Appendix B:

28 U.S.C. 1331, infra page B-3.

15 U.S.C. 1 and 2 (Sherman Act), infra page B-3.

15 U.S.C. 15 and 16 (Clayton Act), infra page B-4.

STATEMENT OF THE CASE

The essential points of the amended complaint in this case are that the respondents monopolized the transfer of property titles without the consent, knowledge or due process notifications and court rights to the property-owner petitioner. The petitioner's constitutional rights and legal rights to protection against monopolistic activities have been violated and substantial injury has resulted to the rights of all United States citizens.

The Court of Appeals for the Seventh Circuit dismissed the appeal November 9, 1983, affirming and adopting the erroneous law and irrelevant authority cited by the district court in its March 5, 1982 dismissal.

A summary of current judicial thinking from other federal courts shown throughout the four pages 167, 168, 169 and

170 of the courts' authority shows support for the petitioner's complaint:

> "There is no reason for the courts to revert to the technical concepts of pleading that existed prior to the adoption of the Federal rules in order to solve the inherent difficulties of antitrust actions."
>
> C. Wright & A. Miller 5 *Federal Practice and Procedure* §1228 (1969 & Supp. 1981), p. 170.

Apparently it is only the historical notes of early cases, now eschewed by other federal courts, which form the courts' claimed authority for dismissal on page 165 and one half of page 166.

Thus the dismissal is contrary to procedures and practices of comparable federal courts. The petitioner was thereby improperly denied substantive justice and a jury determination of reasonable, necessary, implicit, procedural, contextual and inferential facts under federal antitrust laws. Said dismissals, against the manifest weight of documentary evidence, are a miscarriage of justice and injurious to jury trial rights and to legal rights generally for all United States citizens as well as to the petitioner.

On page 19 and again on page 30 of the amended complaint, the petitioner states that the constitutional issues are brought under §1331 of the Judicial Code, 28 U.S.C. §1331. No other basis was cited in either the original or amended complaint. The courts called the case "well pleaded".

The courts may have become confused because the respondents' motion to dismiss assumed that the complaint had been brought under other statutes. The district court appears to have first said that 28 U.S.C. §1331 jurisdiction rests only upon state action, then to have said that said jurisdiction must be rejected because of state action. Such reasoning presents contradictions within the same court as well as between comparable federal courts:

"...Plaintiff does not allege the jurisdictional basis for suit in her complaint. However, in her memorandum in opposition to the motion, she argues that jurisdiction is predicated on 28 U.S.C. §1331. Accordingly, the court assumes she brings the instant suit directly under the fourteenth amendment. Since that amendment applies only to state action, this cause must be dismissed for defendants' failure to plead any facts supporting a finding of such state involvement."

January 26, 1979 district court dismissal of original complaint.

"2. Galvin alleged that this court has jurisdiction 28 U.S.C. §1331 (1980) and then states that the defendants acted under the color of state law in violating her constitutional rights. Thus, the court assumes that Galvin is alleging a cause of action under 42 U.S.C. 1983 (1980).

March 5, 1982 district court dismissal of amended complaint, p. 2.

For support of authority, the district court cited a case concerned with a private insurance contract and in forma pauperis claims. Neither factor is pertinent to the instant case, nor is any other factor in *Wartman* v. *Branch 7, Civil Division, 510 F.2d 130, 134 (7th Cir. 1975).*

The presence of contradictions, inconsistencies and inaccuracies within the courts' reasoning as well as the citing of irrelevant authority invalidates the courts' rationale for dismissal. It follows that the courts' dismissal of alleged constitutional violations is unwarranted and unsupported by either reasoning or analogous cases from other federal courts.

In affirming and adopting the district court's dismissal, the Court of Appeals for the Seventh Circuit affirmed and adopted improper use of authority, procedure, laws and facts with substantial injury to the constitutional and legal rights

of all United States citizens. The dismissal is arbitrary, capricious and violative of substantive justice.

A motion to transmit certified copies of the complete federal and state court records has been presented. Those records detail the many constitutional and antitrust violations which continued in spite of the petitioner's challenges.

As shown by the petitioner's challenges to constitutional rights violations in the Report of Proceedings October 25, 1977 in the circuit court of the 12th judicial circuit of Illinois, case no. W74 PE50, p.19-25 in the appendix, State of Illinois courts have remained silent on the matter of the petitioner's challenges to the violations of her State of Illinois Constitutional and legal rights as well as her rights under the United States Constitution, Article I, Amendments I, IV, VII and XIV, Section I with only Article I, Amendments I, IV, VII and XIV, Section I with only one exception.

That exception was on page 2 of an opinion of the Third Appellate Court of Illinois, July 27, 1979, case no. 78-237 which stated that "...the seventh amendment to the Constitution of the United States does not apply to State Courts" as shown in the Appendix.

The petitioner does not waive any and all other objections she has made heretofore and hereby realleges said objections, retaining all of any point established by her in this case at any time.

The petitioner seeks reversal of the dismissal and instructions to courts within the Seventh Circuit recognizing the Constitutional and legal rights of United States property owners and citizens in matters as pertain to this case, and such other, further and different relief as this Court shall deem just.

REASONS FOR GRANTING WRIT

Respect for the integrity of the courts is a controlling reason for review of this case. Both historically and currently,

the first purpose of the government and the court system is to protect its citizens—their lives, their liberty and their property. Constitutional rights of the United States citizens should be recognized with fidelity regardless of geography or sex.

The courts within the Seventh Circuit need this review in order to resolve internal inconsistencies, contradictions to established law within other circuits, and inequality in the protection of the laws. This case is affected in every aspect by those matters.

The petitioner did not know the respondents and would never have exposed her property rights to them except for state legislation and the court processes required for estates. As a matter of public policy, no one should become sanctioned prey to violations of constitutional rights while attempting to satsfy legal requirements. Otherwise the law-abiding citizenry will become loathe to be voluntarily law-abiding.

Court-documented and specific actions by the respondents, under authority of Illinois statutes and courts while serving as a state-required and court-appointed administrator, pointed towards and converged in the willful, wanton, and unconscionable monopolized transfer of property titles which violated constitutional and other legal rights of the petitioner.

This court has been well disposed to grant review and require fidelity and integrity in support of those rights illustrated in this case. Review of this case by this Court would establish a uniform approach to Constitutional and legal rights applying to property and citizenship throughout the nation as a matter of substantial public importance and concern.

CONCLUSION

For the forgoing reasons, the petitioner respectfully prays that a writ of certiorari be granted.

Respectfully submitted,

Betty Galvin, Pro Se
312-232-2287
Box 305
Geneva, IL. 60134

January 5, 1984

APPENDIX A

OPINIONS BELOW

	PAGE
The opinion of the United States Court of Appeals for the Seventh Circuit, November 9, 1983, unreported, UNPUBLISHED ORDER NOT TO BE CITED, Case No. 82-1520	A-2
The opinion of the District Court, 7th Circuit, March 5, 1982, Case No. 78 C4604	A-5
The opinion of the District Court, 7th Circuit, January 26, 1979, Case No. 78 C 4606	A-8
Report of Proceedings, October 25, 1977, in the Circuit Court of the Twelfth Judicial Circuit of Illinois, Case No. W74PE50	A-9
The opinion of the Third Appellate Court of Illinois, July 27, 1979, Case No. 78-237, page 2	A-14

No. 78-C-4604

IN THE

United States Court of Appeals

FOR THE SEVENTH CIRCUIT
CHICAGO, ILLINOIS 60604
(SUBMITTED OCTOBER 14, 1983)*.
NOVEMBER 9, 1983

Before

Hon. William J. Bauer,
Circuit Judge

Hon. Jesse E. Eschbach,
Circuit Judge

Hon. John L. Coffey,
Circuit Judge

BETTY GALVIN,

Plaintiff-Appellant,
vs.

HERITAGE FIRST NATIONAL BANK OF LOCKPORT, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

Joel M. Flaum,
Judge.

*After preliminary examination of the briefs, the Court notified the parties that it had tentatively concluded that oral argument would not be helpful to the Court in this case. The notice provided that any party might file a "Statement as to Need for Oral Argument." *See* Rule 34(a), Fed. R. App. P.; Circuit Rule 14(f). Having considered the statement submitted by the Plaintiff-Appellant we have nonetheless concluded that oral argument would not be helpful in the resolution of this case, and the matter has been submitted for decision on the briefs and record.

ORDER

The appellant brought this action alleging that the appellees violated various federal antitrust laws in the administration of an estate of which the appellant was a beneficiary; the appellant further alleged violation of her rights under the Fourteenth Amendment. Jurisdiction was alleged pursuant to 28 U.S.C. §1331. The district court dismissed the complaint, holding that the appellant had failed to state a claim under the antitrust laws and that her Fourteenth Amendment claim was also defective for failure to allege state action. We affirm the order of the district court and adopt the district court's memorandum opinion, attached as an appendix to this order. We write simply to amplify upon the district court's disposition of the antitrust claim.

I.

Appellant's substantive claims allege violations of sections 1 and 2 of the Sherman Act, 15 U.S.C. §§1 & 2. Accepting the factual allegations of the complaint as true, *Mid-America Regional Bargaining Association* v. *Will County Carpenters District Council*, 675 F.2d 881, 883 (7th Cir.), *cert. denied*, 103 S. Ct. 132 (1982) the complaint alleges that the appellees conspired to reduce competition in the real estate investment and development market by selling real estate included in an estate of which the appellee Heritage First National Bank of Lockport (the Bank) was executor rather than distributing the real estate to the appellant, a beneficiary under the will. With respect to the alleged section 1 violation, we first note that the appellant's claim must fail with respect to two of the individual appellees (O'Toole and Sabo) because they are officers of the Bank. A corporation and its officers cannot engage in concerted activity that violates section 1 of the Sherman Act because the requisite plurality of actors is missing. *Independence Tool Corp.* v. *Copperweld Corp.*, 691 F.2d 310, 316 (7th Cir. 1982), *cert. granted*, 103 S. Ct. 3109 (1983); *see Pearson* v. *Youngstown*

Sheet & Tube Co., 332 F.2d 439, 442 (7th Cir.), *cert. denied*, 379 U.S. 914 (1964). More fundamentally, the complaint fails to allege how the Bank's actions with respect to one estate affect interstate commerce. A connection between the defendant's activities and interstate commerce cannot be presumed. *McLain* v. *Real Estate Board of New Orleans*, 444 U.S. 232, 242 (1980). Because appellant failed to allege this connection to interstate commerce, the dismissal of her section 1 claim must be affirmed.

We reach a similar result with respect to the appellant's section 2 claim. In order to state a claim alleging a section 2 violation, the plaintiff must allege, *inter alia*, that the defendant possesses monopoly power in the relevant market. *Juneau Square Corp.* v. *First Wisconsin National Bank of Milwaukee*, 624 F.2d 798, 813 (7th Cir.), *cert. denied*, 449 U.S. 1013 (1980). Here the appellant fails to allege that the Bank has monopoly power over the relevant market, and so we also affirm the dismissal of her section 2 claim.

II.

For the reasons stated above and the reasons stated in the district court's memorandum opinion, the order of the district court dismissing the appellant's complaint is affirmed.

No. 78-C-4606

IN THE

United States District Court

NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BETTY GALVIN,

Plaintiff,

v.

HERITAGE FIRST NATIONAL BANK OF LOCKPORT, ILLINOIS, Executor of the Estate of Harold Grabow;
DONALD O'TOOLE, Chairman of Heritage First National Bank of Lockport, Illinois;
WILLIAM SABO, President of Heritage First National Bank of Lockport, Illinois; and
MAX ZOLLNER, Attorney for Heritage First National Bank of Lockport, Illinois,

Defendants.

MEMORANDUM OPINION

JOEL M. FLAUM, District Judge:

This matter comes before the court on the defendants' motion to dismiss the amended complaint for failure to state a claim. For the reasons set forth below, the motion to dismiss the amended complaint is granted.

The well-pleaded factual allegations contained in the complaint must be taken as true for the purposes of a motion to dismiss for failure to state a claim. *Conley* v. *Gibson*, 355 U.S. 41, 45-46 (1957); *Ashbrook* v. *Hoffman*, 617 F.2d 474, 475 (7th Cir. 1980). Such a motion is granted where it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim which would entitle the plaintiff to relief.

Id. In the present case, the plaintiff Betty Galvin ("Galvin") filed an "amended and supplemental" complaint against the defendant the Heritage First National Bank ("Heritage"); Donald O'Toole, chairman of the board of Heritage; William Sabo, president of Heritage; and Max Zollner, an attorney for Heritage. In the amended complaint, Galvin alleges that she was named beneficiary to a one third undivided interest in the estate of Harold Grabow ("Grabow") as set forth in Grabow's last will and testament which was presented in probate court on February 8, 1974. In count I of the amended complaint, Galvin alleges that Heritage, as executor of the Grabow estate, has monopolized the trade and commerce in the State of Illinois in violation of the federal antitrust laws. Apparently, Galvin alleges that Heritage has maintained a unilateral monopoly upon the entire construction, processing, and execution of Grabow's will in violation of the federal antitrust laws. In count II of the amended complaint, Galvin alleges that the actions by the defendants in processing the Grabow estate have violated Galvin's rights under the United States Constitution. Galvin apparently alleges that the actions of the defendants are "under color of state law" because of the various probate court proceedings involving the Grabow estate. In response to the amended complaint, the defendants have relied upon the memorandum in support of the motion to dismiss the original complaint.[1]

While notice pleading rules are applicable to antitrust cases, a plaintiff cannot plead mere conclusory allegations that a defendant has violated the federal antitrust laws. C. Wright & A. Miller, 5 *Federal Practice and Procedure: Civil* § 1228 (1969 & Supp. 1981). Rather, in alleging a cause of action under the antitrust laws, a plaintiff must allege with some specificity the conduct which is claimed to be in viola-

1. On September 20, 1978, this court granted the defendant Heritage's motion to dismiss the original complaint for failure to state a claim for a violation of Galvin's constitutional rights since Heritage did not act under color of state law. *Galvin* v. *Heritage First National Bank*, No. 78 C 180 (N.D. Ill. Sept. 20, 1978).

tion of the federal antitrust laws. *Id.* Applying this standard to the facts alleged in the present case, the court concludes that Galvin's allegations that Heritage has engaged in conduct in violation of the federal antitrust laws in executing Grabow's estate fails to state a cause of action under the federal antitrust laws. Accordingly, the court dismisses count I of the amended complaint for failure to state a claim.

In order to state a claim for violation of federal constitutional rights under 42 U.S.C. § 1983 (1980), a defendant must be acting under color of state law.[2] A private individual's use of the judicial system does not bring that individual's actions under color of state law for the purpose of section 1983. *Wartman* v. *Branch 7, Civil Division*, 510 F.2d 130, 134 (7th Cir. 1975). Applying the law to the present case, the court concludes that the defendants were not acting under color of state law for the purpose of stating a claim under section 1983. Thus, the court dismisses count II of the amended complaint for failure to state a claim.

Accordingly, the court dismisses the amended complaint for failure to state a claim.

/s/ Joel M Flaum

United States District Judge

DATED: March 5, 1982

2. Galvin alleged that this court has jurisdiction under 28 U.S.C. § 1331 (1980) and then states that the defendants acted under color of state law in violating her constitutional rights. Thus, the court assumes that Galvin is alleging a cause of action under 42 U.S.C. 1983 (1980).

No. 78-C-4604

IN THE

United States District Court

NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BETTY GALVIN, *Plaintiff,*

v.

HERITAGE FIRST NATIONAL BANK OF LOCKPORT, ILLINOIS; Executor of the Estate of Harold Grabow, Deceased, DONALD O'TOOLE, Chairman and Chief Executive Officer of Heritage Pullman Bank & Trust Company, WILLIAM SABO, President of Heritage First National Bank of Lockport, Illinois, and MAX ZOLLNER, Attorney for the Executor, *Defendants.*

MEMORANDUM OPINION

JOEL M. FLAUM, District Judge:

Before the court is the motion of the defendants' to dismiss the instant pro se complaint. Fed. R. Civ. P. 12. Plaintiff does not allege the jurisdictional basis for suit in her complaint. However, in her memorandum in opposition to the motion, she argues that jurisdiction is predicated on 28 U.S.C. § 1331. Accordingly, the court assumes she brings the instant suit directly under the fourteenth amendment. Since that amendment applies only to state action, this cause must be dismissed for defendants' failure to plead any facts supporting a finding of such state involvement.

Therefore, defendants' motion is granted. Plaintiff is granted 20 days to amend her complaint to so plead.

It is so ordered.

/s/ Joel M. Flaum
United States District Judge

Dated: January 26, 1979

No. W74PE50

IN THE

Circuit Court

OF THE TWELFTH JUDICIAL CIRCUIT OF ILLINOIS

BETTY GALVIN,

Plaintiff-Appellant,
vs.

HERITAGE FIRST NATIONAL BANK OF LOCKPORT, ILLINOIS; Executor of the Estate of Harold Grabow, Deceased

DONALD O'TOOLE, Chairman and Chief Executive Officer of Heritage Pullman Bank & Trust Company

WILLIAM SABO, President of Heritage First National Bank of Lockport, Illinois

MAX ZOLLNER, Attorney for the Executor

Defendant-Appellee.

Circuit Court of The Twelfth Judicial Circuit of Illinois
Will County
Joliet, Illinois

Honorable
Emil DiLorenzo,
Presiding

Report of Proceedings
Pages 19-25

BETTY GALVIN
Box 305
Geneva, Illinois 60134
PRO SE

REPORT OF PROCEEDINGS
OCTOBER 25, 1977
IN THE CIRCUIT COURT OF
THE TWELFTH JUDICIAL CIRCUIT OF ILLINOIS
CASE NO. W74 PE50

It violates my constitutional right to petition the Government for a redress of grievance as provided in the United States Constitution, 1st Amendment, and in the Constitution of the State of Illinois, Article 1, Section 5, because it seeks to put attorneys and fiduciary institutions automatically beyond legal accountability and estates.

It violates the constitutional rights of the person trying to make a will, as it automatically poses them in a grossly unfair position, leaving their will accessible for literal change and/or for change of direction at the sole discretion of the executor. It violates the inalienable citizen rights of Harold Grabow as well as myself.

This section arrogately assumes that over one hundred fifty years of legal wisdom in Illinois is of no value if it does not serve the greed of fiduciary or attorney interests. Unfortunately, the type of problem posed here is widespread in the dissatisfactions concerning it are even more widely spread, throughout the United States today.

As a result of that I would like to read an Anderson column of last June of '77.

"Not long ago, the Shah of Iran spoke to Chief Justice Warren E. Burger about modernizing the judicial processes in his country. Apologetically, the Shah explained that Iran's system of justice was primitive. In the villages, he said, disputes were resolved by Council's of Elders. There were no Courts, no lawyers, no judicial review.

The Chief Justice confided afterwards that he would like to send a legal team to Iran to investigate the Village justice. The American experts, he suggested, might learn something.

Burger has become increasingly dismayed with the complex legal system in the United States. Lawyers are entangling the populace in litigation, bogging down the Courts and substituting legal manipulation for justice.

"The harsh truth", he warned the American Bar Association last month, "is that we may well be on our way to a society overrun by hoards of lawyers, hungry as locusts, and brigades of judges in numbers never before contemplated."

Attorneys also dominate the Government both State and National Government. The founding fathers intended that Congress, for example, should be representative of the people. But the lawyers have taken it over; they hold more than three hundred of the five hundred thirty-five seats.

Attorneys also populate the various Federal agencies, boards, commissions, committees and Counsels. Both in and out of Government, Washington has more lawyers per capita than any other city in the World. The lawyers in Government produce complex legislation and regulations, which create business for the lawyers out of Government.

The legal processes have become encumbered with procedural rigmarole, unnecessary routines designed more to enrich the lawyers than to serve the public. It costs a small fortune, for example, to clear the title for a home purchase. And the probate processes have become so encrusted that the attorneys often wind up with a greater share of an inheritance than the heirs."

Such legalistic machinactrons are perverse to the spirit of the law and dangerously undermine the citizen foundations of our free nation. Can anyone think that the majority of our citizens would agree with this section which is a vivid violation of both our National and State constitutions? Can anyone think that Illinois citizens enjoy seeing such travesties inserted into Illinois legislation?

It gratuitously vests every Illinois attorney with an interest in this estate that is adverse to Harold Grabow and to me.

The suggestion of divine-powered nobility changing a will at will, which this section temptingly intimates, might dazzle anyone toward anything.

Because of the possibilities of this vested interest upon Illinois attorneys, I am denied unprejudiced professional representation. Such denial deprives me of equality before the law to petition the Government for a hearing concerning my grievances.

It further violates my constitutional rights as provided in the U.S. Constitution, Article 1, Section 10 in the Constitution of Illinois, Article 1, Section 16 which denies State laws that impair the obligations of contracts, including surely the contracts of attorneys and client, and hazards of vested interests previously mentioned.

Additionally, my constitutional rights under the U.S. Constitution, Amendment 14 in the Illinois Constitution, Article 1, Section 2 are violated by the application of the theory that the executors can act with unilateral authority in all matters at all times without even informing the beneficiary of any and all matters concerning the property.

Such application sets the executor above the necessity of observing the constitutional safeguards contained in both the U.S. and Illinois Constitutional passages concerned with deprivation of property without due process of law. I cannot endorse such flauntings of the law or the spirit of the law, not even by attorneys or fiduciary institutions; and I believe that this Court should not endorse such unconstitutional behavior. To do so would be to endorse and impower unreasonable seizure of property which would add still another violation of constitutional rights as set forth in the U.S. Constitution, Amendment 4 in the Illinois Constitution Article 1, Section 6.

For these reasons, Illinois Public Act 79-328, Article 4, Section 426, Part B should be considered unconstitutional and inoperable.

Further, as stated in my petition, I believe the Probate Act of 1939 should apply to this estate and not the Revised Probate Act 79-328.

THE COURT: Let the record show that the Court finds the petitioner makes allegations which are not substantiated by proof.

The will was so estated, so admitted to probate.

The Court finds no reason to make changes.

The petition not having presented the issues, the petition is denied by this Court. This hearing is now over with.

No. 78-237

IN THE

Third Appellate Court

OF THE
STATE OF ILLINOIS
P.2 OF OPINION

BETTY GALVIN,

Plaintiff-Appellant,
vs.

HERITAGE FIRST NATIONAL BANK OF LOCKPORT, ILLINOIS; Executor of the Estate of Harold Grabow, Deceased

DONALD O'TOOLE, Chairman and Chief Executive Officer of Heritage Pullman Bank & Trust Company

WILLIAM SABO, President of Heritage First National Bank of Lockport, Illinois

MAX ZOLLNER, Attorney for the Executor

Defendant-Appellee.

Appeal from the Circuit Court of the Twelfth Judicial Circuit of Illinois

No. W74PE50

an estate has a right to demand that a jury hear evidence concerning objections of the executor's accounting. Simply put, the legatee has a right to neither.

While Article I, Section 13 of the Illinois Constitution of 1970 provides: "The right of trial by jury as heretofore

enjoyed shall remain inviolate," this provision does not confer a right to a jury in any class of cases where either it had not previously existed or the proceeding was created by statute and was unknown to the common law. (*In re the Estate of Haines* (1st Dist., 1977), 51 Ill. App. 3d 163, 366 N.E. 2d 548). Probate is a purely statutory proceeding and, unless the statutes provide a right to jury in a probate proceeding, as is done in Ill. Rev. Stat. 1977, ch. 110-1/2, par. 16-3, for a limited purpose of discovery, and recovery of property of the estate, there exists no right to a jury in probate proceedings. In addition, the seventh amendment to the Constitution of the United States does not apply to State courts. *Wartman* v. *Branch 7, Civil Division, County Court, Milwaukee County, State of Wisconsin* (7th Cir., 1975), 510 F.2d 130.

As for the lack of designation of trust beneficiaries on the accounting, as opposed to the identity of the trust, a residuary legatee also has no grounds for objection. At the time of the sale of these properties by the estate, the court was advised to whom the sale would be made. The 160-acre parcel was sold to the Village of Romeoville. The 80-acre parcel was sold to Earl Meisinger. Meisinger testified in open court as to the identity of persons he was likely to collaborate with in the purchase of the property. The mere fact that a purchaser of estate real estate chose to place the property in a trust is, generally,

APPENDIX B

This case involves the first section of the Fourteenth Amendment to the Constitution of the United States, which provides as follows:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This case also involves the following amendments to the Constitution of the United States:

CONSTITUTION OF THE UNITED STATES

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.*

(The first 10 Amendments were ratified December 15, 1791, and form what is known as the "Bill of Rights")

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

Additionally, this case involves Article I, Section 10 of the Constitution of the United States:

SECTION 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

The following statutes are involved in this case:

28 U.S.C. § 1331

THE DISTRICT COURTS SHALL HAVE ORIGINAL JURISDICTION OF ALL CIVIL ACTIONS WHEREIN THE MATTER IN CONTROVERSY EXCEEDS THE SUM OR VALUE OF $10,000, EXCLUSIVE OF INTEREST AND COSTS, AND ARISES UNDER THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES, EXCEPT THAT NO SUCH SUM OR VALUE SHALL BE REQUIRED IN ANY SUCH ACTION BROUGHT AGAINST THE UNITED STATES, ANY AGENCY THEREOF, OR ANY OFFICER OR EMPLOYEE THEREOF IN HIS OFFICIAL CAPACITY.

§ 1331 of the Judicial Code, 28 U.S.C. § 1331.

15 U.S.C. 1 and 2 (Sherman Act)

JURIES IN ANTITRUST CASES CONSIDER THE EVIDENCE AS A WHOLE AND MAY ACT UPON PROBABLE AND INFERENTIAL, AS WELL AS DIRECT PROOFS. JURIES MAY ALSO INFER INTENT TO MONOPOLIZE FROM PROOF OF ACTUAL MONOPOLY POWER, AND THE FINDING MAY REST UPON CIRCUMSTANTIAL EVIDENCE.

Sherman Anti-Trust Act. 1, 15 U.S.C. 1 and 2

Clayton Act, 15 U.S.C. 15

Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

Clayton Act, 15 U.S.C. 26

Any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of the antitrust laws, including sections 13, 14, 18, and 19 of this title, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: *Provided,* That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit in equity for injunctive relief against any common carrier subject to the provisions of the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, in respect of any matter subject to the regulation, supervision, or other jurisdiction of the Interstate Commerce Commission.

15 U.S.C. 15 and 26 (Clayton Act)